



## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2021-0035; Notice 1]

#### Michelin North America, Inc., Receipt of Petition for Decision of Inconsequential Noncompliance

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Receipt of petition.

**SUMMARY:** Michelin North America, Inc. (“MNA”), has determined that certain Michelin Primacy Tour A/S replacement passenger car tires do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 139, *New Pneumatic Radial Tires for Light Vehicles*. MNA filed an original noncompliance report dated March 25, 2021, and subsequently, MNA petitioned NHTSA on April 7, 2021, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This notice announces receipt of MNA’s petition.

**DATES:** Send comments on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

**ADDRESSES:** Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and submitted by any of the following methods:

- Mail: Send comments by mail addressed to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, S.E., Washington, DC 20590.
- Hand Delivery: Deliver comments by hand to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room

W12-140, 1200 New Jersey Avenue, S.E., Washington, DC 20590. The Docket Section is open on weekdays from 10 am to 5 pm except for Federal holidays.

- Electronically: Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at <https://www.regulations.gov/>. Follow the online instructions for submitting comments.
- Comments may also be faxed to (202) 493-2251.

Comments must be written in the English language and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to [https://www.regulations.gov](https://www.regulations.gov/), including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the internet at [https://www.regulations.gov](https://www.regulations.gov/) by following the online instructions for accessing the docket. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a Federal Register notice published on April 11, 2000 (65 FR 19477–78).

**FOR FURTHER INFORMATION CONTACT:** Abraham Diaz, General Engineer, NHTSA, Office of Vehicle Safety Compliance, (202) 366-5310.

**SUPPLEMENTARY INFORMATION:**

**I. Overview:**

MNA has determined that certain Michelin Primacy Tour A/S replacement passenger car tires do not fully comply with the requirements of paragraph S5.5.1(b) of FMVSS No. 139, *New Pneumatic Radial Tires for Light Vehicles* (49 CFR 571.139). MNA filed a noncompliance report dated March 25, 2021, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. MNA subsequently petitioned NHTSA on April 7, 2021, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance*.

This notice of receipt of MNA's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any Agency decision or other exercise of judgment concerning the merits of the petition.

**II. Tires Involved:**

Approximately 1,196 Michelin Primacy Tour A/S replacement passenger car tires, size 235/65R18 106H, manufactured between January 3, 2021, and January 23, 2021, were identified by MNA as being potentially involved, however, MNA clarified that 1,139 tires were captured and retained in MNA's inventory. Any decision on this petition will only apply to the approximately 57 tires that MNA no longer controlled at the time it determined that the noncompliance existed.

**III. Noncompliance:**

MNA explains that the noncompliance is due to a mold error in which the subject tires contain a tire identification number (TIN) with an inverted plant code and, therefore, do not comply with the requirements specified in paragraph S5.5.1(b) of FMVSS No. 139.

#### **IV. Rule Requirements:**

Paragraph S5.5.1(b) of FMVSS No. 139 includes the requirements relevant to this petition.

- For tires manufactured on or after September 1, 2009, each tire must be labeled with the tire identification number required by 49 CFR part 574 on the intended outboard sidewall of the tire.
- Except for retreaded tires, if a tire does not have an intended outboard sidewall, the tire must be labeled with the tire identification number required by 49 CFR part 574 on one sidewall and with either the tire identification number or a partial tire identification number, containing all characters in the tire identification number except for the date code and, at the discretion of the manufacturer, any optional code, on the other sidewall.

#### **V. Summary of MNA's Petition:**

The following views and arguments presented in this section, "V. Summary of MNA's Petition," are the views and arguments provided by MNA. They have not been evaluated by the Agency and do not reflect the views of the Agency. MNA describes the subject noncompliance and contends that the noncompliance is inconsequential as it relates to motor vehicle safety.

In support of its petition, MNA submitted the following reasoning:

1. The TIN marking noncompliance does not create any operational safety risk for the vehicle. The tires comply with applicable FMVSS and all other applicable regulations.
2. The incorrect orientation of the TIN plant code has no bearing on tire performance.

3. The subject tires are marked with all other markings required under FMVSS No. 139, such as S5.5(c) maximum permissible inflation pressure and S5.5(d) maximum load rating. The necessary information is available on the sidewall of the tire to ensure proper application and usage.
4. The subject tires contain the DOT symbol on both sidewalls, thus, indicating conformance to applicable FMVSS.
5. The plant code on the intended outboard side of the tires contain all the information required by 49 CFR 574.5 for the TIN (plant code + size code + option code + date code), however the 3-digit plant code is inverted. The text should read “DOT 1M3” and instead reads “DOT 3M1 .”
6. The plant code orientation discrepancy only exists on the intended inboard sidewall of the tire. The intended inboard sidewall has the correct sequence of DOT + plant code + size code + option code + manufacturing date, with all characters oriented in the proper direction.
7. For identification and traceability purposes the key information of plant code and manufacturing date is present on the tire.
8. In the event that dealer/owner notifications are required, either the intended marking (DOT 1M3) or the actual marking (DOT inverted “1M3”) would serve as an identifier of the tire.
9. Upon identification of the mismarking, Michelin instituted a block on the affected tires and initiated a sorting of inventories. A total of 1,139 of the 1,196 tires produced with the incorrect marking were captured and retained in Michelin inventory.
10. The plant code plate in the affected mold has been restored to its correct orientation.

11. The mismarking has been communicated to Michelin Customer Care representatives in order to effectively handle any inquiries from dealers or owners regarding the subject tires.

12. MNA contends that NHTSA has concluded in other petitions related to similar TIN marking errors that this type of noncompliance is inconsequential to safety. Most notably, Cooper Tire & Rubber Company, 81 FR 43708 (July 5, 2016) petitioned for tires produced with an inverted date code. MNA states that NHTSA concluded that the inverted marking did not affect the consumers' ability to identify the tire and other examples exist where TIN information was incorrect, missing, or molded in the wrong sequence and NHTSA granted the petition.

MNA concludes that the subject noncompliance is inconsequential as it relates to motor vehicle safety and that its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject tires that MNA no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve equipment distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant tires under their control after MNA notified them that the subject noncompliance existed.

(Authority: 49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.95 and 501.8)

**Otto G. Matheke III,**

*Director, Office of Vehicle Safety Compliance.*

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